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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/802,561	03/17/2004	John G. Polka	M403	3498
30406	7590	07/12/2005	EXAMINER	
ROBERT L. MARSH 54 DANADA DRIVE P.O. BOX 4468 WHEATON, IL 60187-4468			STORMER, RUSSELL D	
			ART UNIT	PAPER NUMBER
			3617	

DATE MAILED: 07/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/802,561

Applicant(s)

POLKA, JOHN G.

Examiner

Russell D. Stormer

Art Unit

3617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1, 2, 4, 6, 7 and 9-14 is/are rejected.
- 7) ☒ Claim(s) 3, 5 and 8 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 March 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 6/21/04.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

Disclosure

1. The specification and drawings are objected to because they need to be provided with reference characters to point out the minimum radius R1, the maximum radius R2, and the radii R3 and R4 as set forth in the claims. It is suggested that the characters R1, R2, R3, and R4 be inserted into the drawings and the specification were appropriate.

Appropriate correction is required.

Claim Objections

2. Claim 5 is objected to under 37 CFR 1.75 as being a duplicate of claim 2.
See MPEP § 706.03(k).

Claim Rejections - 35 USC § 112

3. Claims 9-14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In lines 7 and 8 of each of claims 9 and 12 the term "rearward" is objected to as indefinite. The term is a term of orientation based on a direction, but no reference point has been provided. It might be better to claim the lug nuts as having first and second ends, and orienting the beads and groove with respect to the ends; or to claim the beads and groove as extending along the axis of the nut.

In line 14 of claim 12, there is no antecedent basis for the "means for rigidly retaining."

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1, 2, 5, 6, 7, 9, 10, 12. and 13 are rejected under 35 U.S.C. 102(e) as being anticipated by Bruce et al (US 2005/0073192).

Bruce et al discloses a cover for a wheel comprising a first retainer 38 contacting first and second adjacent ones of lug nuts, and a second retainer 60 contacting the same adjacent lug nuts. See figure 3 which shows the first retainer at 38a and 40 (connected by the annular wall 34), and the second retainer at 60a and 74 (connected by the annular wall 58). The retainers are provided with first and second indentations 38b and 76, respectively. As shown in figure 2, the annular walls are connected to and by the inner surface 32 of the cover body, which forms the means for rigidly locking the first retainer to the second retainer.

With respect to claims 1 and 6, the nuts have a tapered lower surface (unlabelled) contacted by the flange 78. See figure 2 and lines 1-5 of page 3.

With respect to claims 9 and 12, the nuts have a pair of flanges and a groove disposed therebetween as shown in figure 2.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 12, 13, and 14 are rejected under 35 U.S.C. 102(b) as being unpatentable over Eikhoff et al.

The cover of Eikhoff et al comprises a retainer member 54 which has a recess 60 which engages the groove 26 formed between two beads on the lug nut. The weld 74 on the support 64 functions as a means for rigidly retaining the retainer member 54 against the groove.

With respect to claim 14, Eikhoff et al shows welds 74 for joining the support 64 to the retainer 54, but describes in lines 12-15 of column 4 that other means such as bolts may be used. The other means would inherently include screws threaded into a nut to secure the means 64 to the retainer 54, and thus the means would be a screw and nut.

Allowable Subject Matter

8. Claims 3, 5, and 8 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

9. Claim 11 would be allowable if rewritten to overcome the rejection under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The references show other wheel cover attaching devices.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Russell D. Stormer whose telephone number is (571) 272-6687. The examiner can normally be reached on Monday through Friday, 9 AM to 4 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joe Morano can be reached on (571) 272-6684. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3617

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

7/7/05


RUSSELL D. STORMER
PRIMARY EXAMINER 7/7/05